

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In re:

**John Benjamin Vivian  
Jodie Lynn Vivian  
aka Jodie L Batka**  
Debtor(s)

Bankruptcy Case No.: 19-10899-TPA  
Per March 10, 2020 Proceeding  
Chapter: 13  
Docket No.: 59 – 17, 28  
Concil. Conf.: at

**ORDER OF COURT CONFIRMING PLAN AS MODIFIED  
AND SETTING DEADLINES FOR CERTAIN ACTIONS**

**(1.) PLAN CONFIRMATION:**

IT IS HEREBY ORDERED that upon consent of the Debtor(s), the Chapter 13 Plan dated October 4, 2019 is CONFIRMED as modified at the Plan confirmation hearing. Terms of the Plan not expressly modified by this Order remain in full force and effect. A copy of this Plan was previously mailed to you. *Only those provisions which are checked below apply to this case:*

- ☒ A. For the remainder of the Plan term, the periodic Plan payment is amended to be \$1,505.00 as of March, 2020. Debtor(s)' counsel shall file a motion to amend the income attachment order within seven (7) days of the date of this Order.
- ☐ B. The length of the Plan is increased to a total of months. This statement of duration of the Plan is an approximation. The Plan shall not be completed until the goals of the Plan have been achieved. The total length of the Plan shall not exceed sixty (60) months.
- ☐ C. Plan confirmation is on an interim basis only as a form of adequate protection. The Trustee is authorized to distribute to secured and priority creditors with percentage fees. ***A final plan conciliation conference will be held on at , in .*** If the Parties cannot resolve all disputes at the conciliation conference, a hearing will be scheduled and orally announced at the conclusion of the conference without any further written notice to any party. Parties are directed to monitor the Court's docket and read the Chapter 13 Trustee's minutes of the conciliation conference to the extent such parties desire more information regarding the outcome of the conciliation conference.
- ☐ D. Plan confirmation is subject to the resolution of all actions to determine the avoidability, priority, or extent of liens; including determination of the allowed amount of secured claims under 11 U.S.C. §506, disputes over the amount and allowance of claims entitled to priority under 11 U.S.C. §507, and all objections to claims.
- ☐ E. The allowed claims of general unsecured creditors shall be paid from available funds on a pro rata basis, which may represent an increase or decrease in the amount projected in the Plan.
- ☐ F. shall be paid monthly payments of \$ beginning with the Trustee's distribution and continuing for the duration of the plan term, to be applied by that creditor to its administrative claim, budget payments and/or security deposit. These payments shall be at the third distribution level.
- ☒ G. The claims of the following creditors shall govern as to amount, classification and rate of interest (or as otherwise noted), unless the Debtor(s) successfully objects to the claim: PNC Bank (Claim No. 10-2) with payments determined by Trustee .
- ☐ H. Additional Terms:

**(2.) IT IS FURTHER ORDERED THAT THE FOLLOWING DEADLINES ARE ESTABLISHED:**

**A. Objections to the Plan.** Pursuant to *Fed.R.Bankr.P. 2002(b)*, this Order shall not become final for a period of twenty-eight (28) days. Any party in interest with an objection to any provision of this Confirmation Order must file a written objection within that twenty-eight (28) day period. Failure to timely object shall be deemed a waiver of all objections and an acceptance of the provisions of this confirmed Plan. The Trustee may disburse funds pursuant to this confirmation order upon its entry.

**B. Applications to retain brokers, sales agents, or other professionals.** If the Plan contemplates sales of assets or litigation proceeds as a source of funding, Debtor(s) shall file motion(s) to employ the necessary professionals within thirty (30) days hereof.

**C. Review of Claims Docket and Objections to Claims.** Pursuant to *W.PA.LBR 3021-1(c)(2)*, the Debtor or Debtor's attorney, if represented, shall review the proofs of claim filed and shall file objections to any disputed claims within ninety (90) days after the claims bar date or, for late filed or amended claims, within ninety (90) days after they are filed and served. Absent an objection, the proof of claim will govern as to the classification and amount of the claim. Objections filed after the ninety (90) days specified herein shall be deemed untimely.

**D. Motions or Complaints Pursuant to §§506, 507 or 522.** All actions to determine the priority, avoidability, or extent of liens, all actions pursuant to *11 U.S.C. §§506, 507 and 522* shall be filed within ninety (90) days after the claims bar date.

**E. Filing Amended Plans.** Within fourteen (14) days after the Bankruptcy Court resolves the priority, avoidability, or extent of a lien, or any objection to claim, the Debtor(s) shall file an amended Plan to provide for the allowed amount of the claim if the allowed amount differs from the amount stated in the plan. Debtor(s) shall also file an amended Plan within thirty (30) days after the claims bar date(s) in the event that no objection is filed and the claim(s) as filed causes the Plan to be underfunded.

(3.) ***IT IS FURTHER ORDERED THAT:***

**A.** After the claims objection deadline, the Plan shall be deemed amended to conform to the claims filed or otherwise allowed. If the Plan expressly modified the terms of payment to any creditor pursuant to *11 U.S.C. §1322(b)(2)*, nothing in this Order shall be construed to change the payment terms established in the Plan.

**B.** Any creditor who files or amends a proof of claim shall serve a copy on the Debtor(s) or counsel for the Debtor(s).

**C.** Any creditor whose payment changes due to variable interest rates, change in escrow, or change in monthly payments, shall notify the Trustee, Debtor(s)' counsel and Debtor(s) at least twenty-one (21) days prior to the change taking effect.

**D.** Debtor's counsel must file a fee application in accordance with *W.PA.LBR 2016-1* before attorney fees in excess of the "no look" provision (including retainer) will be allowed or paid.

**E.** The Trustee shall file a *Certificate of Default and Request for Dismissal* of the case in the event of a material Plan default. If the default involves failure to make a plan payment the case will result in dismissal without further hearing upon filing and service of an *Affidavit of Default* by the Trustee. The Trustee is not precluded from raising pre-confirmation defaults in any subsequent motion to dismiss.

**F.** In the event that any order is entered in this case granting relief from the automatic stay to a secured creditor, then the Trustee shall make no further disbursements to any creditor on account of any ***secured claim*** that is secured by the subject property, unless directed otherwise by further Order of Court.



Thomas P. Agresti, Judge  
United States Bankruptcy Court

Dated: March 19, 2020

cc: All Parties in Interest to be served by Clerk in seven (7) days

**Certificate of Notice Page 4 of 5**  
 United States Bankruptcy Court  
 Western District of Pennsylvania

In re:  
 John Benjamin Vivian  
 Jodie Lynn Vivian  
 Debtors

Case No. 19-10899-TPA  
 Chapter 13

**CERTIFICATE OF NOTICE**

District/off: 0315-1

User: vson  
 Form ID: 149

Page 1 of 2  
 Total Noticed: 41

Date Rcvd: Mar 19, 2020

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Mar 21, 2020.

db #+John Benjamin Vivian, PO Box 677, Conneaut Lake, PA 16316-0677  
 jdb #+Jodie Lynn Vivian, PO Box 677, Conneaut Lake, PA 16316-0677  
 sp +Dallas W. Hartman, 201 Green Ridge Drive, New Castle, PA 16105-6139  
 15117919 +Aes / Pheaa frn, PO Box 61047, Harrisburg, PA 17106-1047  
 15117920 +Ar Resources Inc, 1777 Sentry Parkway West, Blue Bell, PA 19422-2206  
 15117921 +BFG Supply Company, PO Box 479, Burton, OH 44021-0479  
 15117922 ++CAINE & WEINER COMPANY, 12005 FORD ROAD 300, DALLAS TX 75234-7262  
 (address filed with court: Caine Weiner, Po Box 55848, Sherman Oaks, CA 91413)  
 15117924 +Commonwealth Financial, 245 Main Street, Dickson City, PA 18519-1641  
 15205473 Educational Credit Management Corporation, P.O. Box 16408, St. Paul, MN 55116-0408  
 15117927 Geneva Truck & Equipment Inc, 17693 PA 285, Cochran, PA 16314  
 15133232 +Household Finance Consumer, Discount Company, 3747 William Penn Highway,  
 Monroeville, PA 15146-2189  
 15133233 +John M Rossi, c/o Jessica A Smith, 1 East State Street, 4th Floor,  
 Sharon, PA 16146-1714  
 15117928 +KML Law Group PC, BNY Mellon Independence Center, 701 Market Street, Suite 5000,  
 Philadelphia, PA 19106-1541  
 15133234 +Lloyds Rental & Sales, 1355 South Main Street, Meadville, PA 16335-3072  
 15117929 +Luke's Automotive, 1836 West 26th Street, Erie, PA 16508-1149  
 15117930 +Meadville Diagnostic Medical Imaging Inc, 751 Liberty Street, Meadville, PA 16335-2559  
 15117933 +PA Liberty St Emergency Physicians LLC, 751 Liberty Street, Meadville, PA 16335-2559  
 15129308 +PHEAA, PO Box 8147, Harrisburg, PA 17105-8147  
 15157828 +PNC Bank, N.A., P.O. Box 94982, Cleveland, OH 44101-4982  
 15117935 +PNC Mortgage, Attn: Bankruptcy Dept., 3232 Newmark Drive, Miamisburg, OH 45342-5433  
 15149126 +Penelec, c/o FirstEnergy/Penelec, 101 Crawford's Corner Rd., Bldg. #1, Ste. 1-511,  
 Holmdel, NJ 07733-1976  
 15117934 +Penn Credit Corporation, 2800 Commerce Drive, Harrisburg, PA 17110-9307  
 15117937 +Progressive, PO Box 7247-0311, Philadelphia, PA 19170-0001  
 15133235 +Tamara Kerr, 200 South Ridge East, Geneva, OH 44041-9303  
 15133236 +Tracy Little, 27651 Hickory Corners Road, Guys Mills, PA 16327-5529  
 15148245 UPMC Physician Services, PO Box 1123, Minneapolis MN 55440-1123  
 15144672 +Windstream, Attn: Financial Services, 1720 Galleria Blvd, Charlotte, NC 28270-2408

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

cr +E-mail/PDF: acg.acg.ebn@americaninfosource.com Mar 20 2020 03:39:43  
 Capital One Auto Finance, a division of Capital One, 4515 N Santa Fe Ave. Dept. APS,  
 Oklahoma City, OK 73118-7901  
 15117923 +E-mail/PDF: AIS.cocard.ebn@americaninfosource.com Mar 20 2020 03:40:55 Capital One N.A.,  
 PO Box 30285, Salt Lake City, UT 84130-0285  
 15133231 +E-mail/Text: ra-li-ucts-bankhbg@state.pa.us Mar 20 2020 03:33:01 Commonwealth of PA UCTS,  
 Department of Labor & Industry, 651 Boas Street, Room 702, Harrisburg, PA 17121-0751  
 15117925 +E-mail/Text: electronicbkydocs@nelnet.net Mar 20 2020 03:32:12  
 Department Of Education / Nelnet Loans, 121 South 13th Street, Lincoln, NE 68508-1904  
 15117926 +E-mail/Text: bankruptcy@firstenergycorp.com Mar 20 2020 03:32:10 First Energy,  
 5001 Nasa Boulevard, Fairmont, WV 26554-8248  
 15147192 +E-mail/Text: Bankruptcy@natfuel.com Mar 20 2020 03:32:02 National Fuel, Legal Dept.,  
 P.O. Box 2081, Erie, PA 16512-2081  
 15117931 +E-mail/Text: Bankruptcy@nragroup.com Mar 20 2020 03:33:02 National Recovery Agency,  
 2491 Paxton Street, Harrisburg, PA 17111-1036  
 15117932 +E-mail/Text: toleski@oamortho.com Mar 20 2020 03:32:59 Orthopedic Associates of Meadville,  
 11277 Vernon Place, Suite 200, Meadville, PA 16335-3719  
 15117936 E-mail/PDF: PRA\_BK2\_CASE\_UPDATE@portfoliorecovery.com Mar 20 2020 03:41:13  
 Portfolio Recovery Associates, 150 Corporate Boulevard, Norfolk, VA 23502  
 15139803 +E-mail/Text: bankruptcy@firstenergycorp.com Mar 20 2020 03:32:10 Penn Power,  
 5001 NASA Blvd, Fairmont WV 26554-8248  
 15135492 E-mail/PDF: resurgentbknofications@resurgent.com Mar 20 2020 03:42:31  
 Pinnacle Credit Services, LLC, Resurgent Capital Services, PO Box 10587,  
 Greenville, SC 29603-0587  
 15117938 +E-mail/Text: bankruptcy@sw-credit.com Mar 20 2020 03:32:03 Southwest Credit Systems,  
 4120 International Parkway, Carrollton, TX 75007-1958  
 15128456 +E-mail/Text: electronicbkydocs@nelnet.net Mar 20 2020 03:32:12  
 US Department of Education c/o Nelnet, 121 S 13th St, Suite 201, Lincoln, NE 68508-1911  
 15117939 +E-mail/Text: wci.bankruptcy@windstream.com Mar 20 2020 03:33:05  
 Windstream Communications Inc., 4001 Rodney Parham Road, Little Rock, AR 72212-2459  
 TOTAL: 14

\*\*\*\*\* BYPASSED RECIPIENTS (undeliverable, \* duplicate) \*\*\*\*\*

cr PNC BANK NATIONAL ASSOCIATION

District/off: 0315-1

User: vson  
Form ID: 149

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Total Noticed: 41

Date Rcvd: Mar 19, 2020

cr\* Educational Credit Management Corporation, PO Box 16408, St. Paul, MN 55116-0408  
TOTALS: 1, \* 1, ## 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.  
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

Addresses marked '++' were redirected to the recipient's preferred mailing address  
pursuant to 11 U.S.C. 342(f)/Fed.R.Bank.PR.2002(g)(4).

Addresses marked '#' were identified by the USPS National Change of Address system as requiring an update.  
While the notice was still deliverable, the notice recipient was advised to update its address with the court  
immediately.

**I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.**

**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Mar 21, 2020

Signature: /s/Joseph Speetjens

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## CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on March 19, 2020 at the address(es) listed below:

Daniel P. Foster on behalf of Joint Debtor Jodie Lynn Vivian dan@mrdebtbuster.com,  
clarissa@mrdebtbuster.com; fosterlaw@ecf.inforuptcy.com; anne@ecf.inforuptcy.com  
Daniel P. Foster on behalf of Debtor John Benjamin Vivian dan@mrdebtbuster.com,  
clarissa@mrdebtbuster.com; fosterlaw@ecf.inforuptcy.com; anne@ecf.inforuptcy.com  
James Warmbrodt on behalf of Creditor PNC BANK NATIONAL ASSOCIATION bkgroup@kmlawgroup.com  
Office of the United States Trustee ustpreion03.pi.ecf@usdoj.gov  
Ronda J. Winnecour cmecf@chapter13trusteedpa.com

TOTAL: 5